

BEFORE THE CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the matter of the Accusation Against:

KENNY H. LEE CPA GROUP, INC.  
KWANG-HO LEE, CPA  
15017 Crenshaw Blvd. 2<sup>nd</sup> Floor  
Gardena, CA 90249

Case No.: AC-2007-38  
OAH No.: N2008050601

Certificate No. 5185  
License No. 64155

Respondents.

**ORDER CORRECTING CLERICAL ERROR AND  
AMENDED ORDER NUNC PRO TUNC AFTER  
NON-ADOPTION OF PROPOSED DECISION**

On its own motion, good cause appearing, the California Board of Accountancy (Board) finds that the order heretofore entered in the above-entitled matter on June 4, 2009, is not in conformity with the decision of the Board as intended and that such clerical error should be corrected so that the order will conform to the Board's decision in this matter.

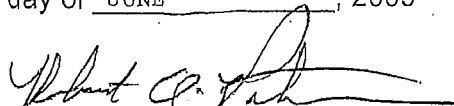
IT IS HEREBY ORDERED that the Order contained in the Board's Decision After Non-Adoption of Proposed Decision in the above-entitled matter be and hereby is amended and corrected nunc pro tunc as of the date of entry of the decision to read as follows:

Certified public accountant license number CPA 64155, issued to Respondent Kwang-Ho Lee is revoked pursuant to Legal Conclusions 1,2,6, and 9 separately and for all of them.

Certified public accountancy corporation certificate number COR 5158, issued to Respondent Kenny H. Lee CPA Group, Inc. is revoked pursuant to Legal Conclusions 1, 2, 6, and 9 separately and for all of them.

Respondent shall reimburse the Board \$24,057.35 for its investigation and prosecution costs.

IT IS SO ORDERED this 22nd day of JUNE, 2009

  
ROBERT PETERSEN, CPA  
President, Board of Accountancy  
Department of Consumer Affairs

BEFORE THE CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the matter of the Accusation  
Against:

KENNY H. LEE CPA GROUP, INC.  
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Gardena, CA 90249

Case No.: AC-2007-38  
OAH No.: L2008050601

Certificate No. COR 5185  
Certificate No. CPA 64155

Respondents.

**DECISION AFTER NON-ADOPTION OF PROPOSED DECISION**

Daniel Juárez Administrative Law Judge with the Office of Administrative Hearings, heard this matter on November 6, 2008, in Los Angeles, California.

Rene Judkiewicz, Deputy Attorney General, represented complainant Patti Bowers, Executive Officer of the California Board of Accountancy (Board), Department of Consumer Affairs.

Fréderrick M. Ray, Attorney at Law, represented Kwang-Ho Lee (Respondent Lee) and Kenny H. Lee CPA Group, Inc. (Respondent KHL).

At hearing, complainant's counsel amended the Accusation by deleting the words, "Daniel Rich" from page one, line 22, and replacing them with the words, "Patti Bowers."

Oral and documentary evidence was received and the matter submitted on November 6, 2008.

The proposed decision of the administrative law judge was submitted on December 3, 2008 and received by the Board on December 10, 2008. After due consideration thereof, the Board declined to adopt said proposed decision and thereafter on February 2, 2009 issued an Order of Non-Adoption of Proposed Decision. Subsequent to the receipt of the transcript on February 27, 2009, the parties were given the opportunity to submit written argument to the Board.

Written argument having been received from both parties, and the time for filing written argument in this matter having expired, the entire record, including the transcript of said hearing, having been read and considered, pursuant to Government Code Section 11517, the Board hereby makes the following decision and order:

#### FACTUAL FINDINGS

The Factual Findings of the administrative law judge in his Proposed Decision, dated December 3, 2008, paragraphs 1 through 15 are adopted and hereby incorporated by reference.

#### LEGAL CONCLUSIONS

The Legal Conclusions of the administrative law judge in his Proposed Decision, dated December 3, 2008, paragraphs 1 through 16 are adopted and hereby incorporated by reference.

#### ORDER

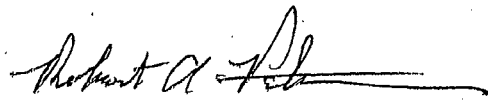
Certified public accountant license number CPA 64155, issued to Respondent Kwang-Ho Lee is revoked pursuant to Legal Conclusions 1, 2, 6, and 10 separately and for all of them.

Certified public accountancy corporation certificate number COR 5158, issued to Respondent Kenny H. Lee CPA Group, Inc. is revoked pursuant to Legal Conclusions 1, 2, 6 and 10 separately and for all of them.

Respondent shall reimburse the Board \$24,057.35 for its investigation and prosecution costs.

IT IS SO ORDERED this 4<sup>th</sup> day of June, 2009

Effective July 4, 2009



ROBERT PETERSEN, CPA  
President, Board of Accountancy  
Department of Consumer Affairs

BEFORE THE CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the matter of the Accusation  
against:

KENNY H. LEE CPA GROUP, INC.  
KWANG-HO LEE, CPA  
15017 Crenshaw Blvd. 2<sup>nd</sup> Floor  
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Certificate No. 5185  
License No. 64155

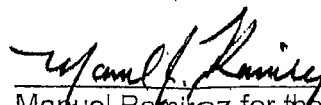
Respondents

Case No.: AC-2007-38  
OAH No.: N2008050601

**ORDER OF NON-ADOPTION OF PROPOSED DECISION**

Pursuant to Section 11517 of the Government Code, the Proposed Decision of the Administrative Law Judge in the above-entitled matter is rejected. The California Board of Accountancy will decide the case upon record, including the transcript of the hearing held on November 6, 2008, and upon such written argument as the parties may wish to submit. The Board is particularly interested in written argument directed to the question whether the penalty should be increased. The parties will be notified of the date for submission of such argument when the transcript of the above-mentioned hearing becomes available.

IT IS SO ORDERED this 2 day of February, 2009

  
Manuel Ramirez for the  
Board President

BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

KENNY H. LEE CPA GROUP, INC.,

Certificate No. 5185;

KWANG-HO LEE,

Certified Public Accountant  
License No. CPA 64155,

Respondents:

Agency Case No. AC-2007-38

OAH Case No. L2008050601

**PROPOSED DECISION**

Daniel Juárez, Administrative Law Judge with the Office of Administrative Hearings, heard this matter on November 6, 2008, in Los Angeles, California.

Rene Judkiewicz, Deputy Attorney General, represented Patti Bowers (Complainant), Executive Officer, California Board of Accountancy (the Board), Department of Consumer Affairs.

Frederick M. Ray, Attorney at Law, represented Kwang-Ho Lee (Respondent Lee) and Kenny H. Lee CPA Group, Inc. (Respondent KHL).

At hearing, Complainant's counsel amended the Accusation by deleting the words, "Daniel Rich" from page one, line 22, and replacing them with the words, "Patti Bowers."

The parties submitted the matter for decision on November 6, 2008.

**FACTUAL FINDINGS**

1. The Board's then-Executive Officer filed the Accusation in her official capacity on or about February 4, 2008. Respondent filed the Notice of Defense on February 26, 2008. On or about August 6, 2008, the Board's then-Acting Executive Officer filed the First Amended Accusation in his official capacity.

2. Complainant contends Respondents' licenses are subject to suspension, revocation, or other discipline for committing several acts of gross negligence, failing to

maintain independence when performing auditing services, the imposition of discipline by the Public Company Accounting Oversight Board (PCAOB), and failing to report that discipline to the Board timely. Furthermore, Complainant seeks to recover the Board's costs of investigation and prosecution.

3. Respondents admit to committing the various violations, as Complainant alleges, but contend that despite those violations, Respondents should retain their licenses.

4. On May 13, 1993, the Board issued certified public accountant certificate number 64155 to Respondent Lee. He has continuously renewed his license since its issuance; it is current through March 31, 2010. On October 31, 2002, the Board issued certified public accountancy corporation certificate number 5185 to Respondent KHL. At the time of hearing, the evidence established that Respondent KHL's license was valid only through October 31, 2008. Nonetheless, the Board retains jurisdiction over Respondent KHL's license pursuant to Business and Professions Code section 5109.

*The Estate Tax Return for Client Ashford*

5. In approximately April 2005, Yvonne Ashford (Ashford) met with Respondent Lee. Ashford sought assistance in filing her deceased mother's estate tax return. Ashford's deceased mother's estate was valued at \$270,000. Respondent Lee agreed to prepare an estate tax return and initially charged Ashford \$250 to prepare a form 1041 tax return, but thereafter, increased the charges to \$500. Ashford agreed to the increased cost. Several weeks later, Respondent Lee informed Ashford that she needed to file a form 706 (United States Estate (and Generation-Skipping Transfer) Tax Return), and increased the cost to \$1,000. Ashford agreed because Respondent Lee informed her that the additional form 706 was required. Upon picking up the prepared forms, Ashford tendered a personal check to Respondent Lee for \$1,000. However, after speaking to her attorney, Ashford understood that the form 706 was not required because her deceased mother's estate was valued at less than one million dollars. Ashford then placed a hold on the \$1,000 check she had given to Respondent Lee. Ashford and Respondent Lee spoke thereafter, and Respondent Lee contended that the form 706 was indeed required. In September 2005, in correspondence he sent to the Board's investigator, Respondent again contended that the form 706 was required. However, at hearing, Respondent acknowledged that form 706 was not in fact required for Ashford's filing.

6. In his practice, Respondent Lee has not regularly prepared estate tax filings. In his career as a certified public accountant, Respondent Lee has prepared only one other estate tax filing. He asserted at hearing that he agreed to prepare the estate tax return without properly considering his lack of experience. Ashford never withdrew the hold on the check she had tendered to Respondent Lee. Ashford did not pay Respondent Lee for the preparation of the forms 1041 or 706. At hearing, Respondent Lee agreed that he was wrong in concluding that the form 706 was required and does not intend to pursue payment from Ashford for the preparation of the form 1041. Ashford did not experience any problems filing her deceased mother's estate tax return.

7. The Board's investigator, Paul Fisher (Fisher),<sup>1</sup> opined that Respondent Lee's actions, informing Ashford that her deceased mother's estate tax filing required the filing of a form 706, constituted gross negligence. Respondent did not dispute Fisher's opinion.

*The PCAOB's Disciplinary Action*

8. On November 22, 2005, the PCAOB revoked Respondent KHL's registration and barred Respondent Lee from being an associated person of a registered public accounting firm. The PCAOB found that Respondents had violated PCAOB rules and auditing standards in auditing the financial statements of two clients in 2004, and the PCAOB's independence standards with respect to one of those clients in 2003. Pursuant to a settlement with the PCAOB, Respondents consented to the entry of an order instituting disciplinary proceedings, making findings, and imposing sanctions against them. The PCAOB determined that it was appropriate to impose sanctions against Respondents "to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports." Respondents' transgressions, as determined by the PCAOB, are set forth in Factual Findings 11(a), 11(b), 11(c), 11(d), 11(e), 11(f), 11(g), 11(h), 12(a), 12(b), and 12(c).

9. Respondents failed to report the PCAOB's disciplinary actions to the Board within 30 days of knowing of the events that led to the PCAOB's disciplinary action, the initiation of the PCAOB's investigation, or the PCAOB's discipline.

10(a). Respondent Lee did not dispute that he failed to report the PCAOB's disciplinary action timely; however, he argued that he interpreted a provision of his offer of settlement to the PCAOB, dated October 13, 2005, as limiting his ability to report the discipline. In a letter from Respondents' counsel to the Board's investigator, dated February 10, 2006, Respondents' counsel highlighted the following provision contained in their offer of settlement to the PCAOB: "Respondent [Lee] agrees not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any finding in the Order or creating the impression that the Order is without factual basis." Respondents' counsel contended to the Board's investigator as follows, "[o]ur interpretation of this clause in the Order is that [Respondent Lee] is not at liberty to make comments concerning the settlement or Order, and that to do so could be construed as a breach of that agreement as stated."

10(b). Respondents' counsel's argument, that the offer of settlement provision appeared to preclude such disclosure, is without merit. The wording of the provision speaks only to preventing Respondents from making public statements "denying, directly or

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<sup>1</sup> Paul Fisher has been an investigative certified public accountant (CPA) for the Board since June 2002. He is a member of the American Institute of Certified Public Accountants. He has held positions as Senior Accountant and Staff Accountant for several CPA firms in Sacramento and Salinas, California, from late 1990 to mid-2002.

indirectly, any finding in the Order or creating the impression that the Order is without factual basis." It did not prevent Respondents from disclosing the PCAOB's discipline.

#### *Actions regarding GSL*

11(a). In 2003, Respondents were engaged by GSL Holdings, Inc. (GSL), a British Virgin Islands corporation that has business operations in California and the People's Republic of China (PRC). Respondents agreed to act as GSL's independent auditor, and issued an unqualified audit report, dated April 8, 2004. In that report, Respondents stated that GSL's financial statements fairly presented its financial condition, in conformity with U.S. generally accepted accounting principles. However, after finding that Respondents had failed to perform its audit services, as detailed in Factual Findings 11(b) through 11(h), the PCAOB concluded that Respondents "failed to exercise due professional care, failed to exercise professional skepticism, and failed to obtain sufficient competent evidential matter" in its work for GSL.

11(b). More specifically, the PCAOB found that Respondents, while engaged by GSL, had acted in the following manner. First, although GSL noted an increase in its assets through the acquisition of two properties in the PRC, Respondents did not obtain sufficient competent evidence to reasonably conclude that GSL had legally acquired the two properties. Respondents did not verify that GSL and the seller of the properties had executed final acquisition agreements.

11(c). Second, Respondents' audit procedures were insufficient to reasonably conclude GSL had properly valued the purchased properties.

11(d). Third, Respondents failed to employ a heightened standard when evaluating material transactions between related parties. In the case of GSL, GSL's chairman was also the chairman and controlling shareholder of the corporation from which the properties were acquired. Such a relationship would require a heightened standard.

11(e). Fourth, while GSL had disclosed that it had prepaid some of its vendors in the PRC for products and services, Respondents did not perform an adequate audit procedure to test whether GSL had actually prepaid the vendors for those products and services, or whether those prepayment costs were properly classified as assets on GSL's balance sheet.

11(f). Fifth, GSL included its property acquisitions in its statement of cash flows, overstating its cash flow by approximately \$32 million. The PCAOB concluded that such an accounting treatment departed from generally accepted auditing principles (GAAP)<sup>2</sup> and required the reporting of non-cash activities in related disclosures, not in the cash flow

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<sup>2</sup> GAAP is the acronym for Generally Accepted Accounting Principles. GAAP are the accepted professional standards, principles, and guidelines for measuring, recording, and classifying the transactions of a business entity.



statement. Respondents did not identify this GAAP departure and failed to perform audit procedures to evaluate whether GSL's actions in fact complied with GAAP.

11(g). Sixth, GSL recorded tax deferred assets of over \$1 million, based on U.S. federal and California state tax rates, although most of the revenues and a portion of its losses were attributed to GSL's foreign operations. Respondents failed to identify this action as a departure from GAAP and failed to evaluate whether such an accounting practice complied with GAAP.

11(h). Seventh, several facts supported a conclusion that some of GSL's tax assets would not be realized in future periods, however, GSL recorded no valuation allowance (reduction of a deferred tax asset). Respondents did not review GSL's projections and strategies, nor did it evaluate whether a valuation allowance should have been recorded.

#### *Actions regarding Axesstel*

12(a). Beginning in about August 2002, Respondent KHL was engaged by Axesstel, a Nevada corporation with business operations in California and South Korea. Respondent KHL agreed to act as Axesstel's independent auditor and performed interim reviews of Axesstel's financial statements for two quarters of 2003.

12(b). In June 2003, while Respondent KHL was engaged as Axesstel's independent auditor, Respondent Lee accepted an offer to serve on Axesstel's board of directors. In September 2003, Respondent Lee formally became a member of Axesstel's board and assumed the chair of Axesstel's audit committee. Respondent KHL was engaged with Axesstel until November 2003. According to the PCAOB, "Respondents failed to maintain independence with respect to Axesstel during the professional engagement period, in violation of PCAOB interim independence standards and PCAOB Rule 3600T." Respondents' actions also violated Rule 101 of the AICPA's Code of Professional Conduct, in effect in April 2003.<sup>3</sup> Respondent Lee resigned his directorship in March 2004.

12(c). On or about September 21, 2004, Axesstel re-engaged Respondent KHL to audit a restatement of Axesstel's financial statements for the fiscal year ending December 31, 2002. On September 30, 2004, Respondent KHL issued an audit report finding that the restated financial statements fairly presented Axesstel's financial condition in all material respects and in conformity with GAAP. However, before issuing its audit report, Respondents did not perform audit procedures to determine whether the restated amounts were fairly stated in conformity with GAAP. The PCAOB found that, "Respondent's conduct violated the most fundamental PCAOB standards, which require an auditor to

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<sup>3</sup> AICPA is the acronym for the American Institute of Certified Public Accountants. Rule 101 provides that a member in public practice shall be independent in the performance of professional services.

perform audit procedures necessary to afford a reasonable basis for an opinion and prohibit an auditor from relying on management representations as a substitute for such procedures.”

13. Fisher opined that Respondents’ actions regarding GSL and Axesstel were contrary to the Accountancy Act and various GAAS, specifically AU 326.02, 326.03, 326.07, 336.03, 336.08, 336.10, 226.12, and 341.10.<sup>4</sup> Respondent did not dispute Fisher’s opinion.

*Respondent Lee’s Acknowledgements and Demeanor at Hearing*

14. Respondent Lee exhibited a remorseful demeanor at hearing. He was respectful of the proceedings and the Board. He cooperated with the Board and with the PCAOB in its investigations. He acknowledges that he acted wrongfully and does not dispute the Board’s investigative findings. Respondent Lee accepted full responsibility for his transgressions. He explained that, as in the case of Ashford’s estate tax return, he did not have the requisite experience to properly handle the international accounting matters inherent in the cases of GSL and Axesstel and to deal generally with publicly traded companies. Respondents’ practice is approximately 60 percent tax preparation services, 36 percent accounting services, and four percent auditing services. Respondents provided letters of support from numerous clients that supported and corroborated Respondent Lee’s assertion that his practice is well regarded by his clients. Respondents’ clients described Respondents as honest and trustworthy, and providing quality accounting services to individuals and small businesses. Respondent Lee is active in his church and is current with his continuing education requirements.

*The Board’s Costs*

15. The Board expended \$15,401.75 in prosecution costs through October 27, 2008. Complainant’s counsel asserted a good faith estimate that the California Department of Justice would bill the Board an additional \$1,580 up to the first day of hearing, however, she provided no evidence to establish that estimate. Therefore, the evidence did not establish prosecutorial costs beyond the established \$15,401.75. The Board also expended \$9,655.60 in investigative costs. The Board’s costs are just and reasonable. Respondents provided no evidence that the full costs of investigation and prosecution, if assessed, would be an economic hardship.

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<sup>4</sup> GAAS is the acronym for Generally Accepted Auditing Standards. The GAAS, issued by the AICPA, set forth numerous accepted auditing standards.

## LEGAL CONCLUSIONS

### *Gross Negligence & the PCAOB's Disciplinary Action*

1. Cause exists to revoke or suspend Respondents' certified public accountant license number CPA 64155 and certified public accountancy corporation number 5185, pursuant to Business and Professions Code, section 5100, subdivision (c), for acts of unprofessional conduct constituting gross negligence, as set forth in Factual Findings 1, 4-7, 11-13, and Legal Conclusions 3-5.

2. Cause exists to revoke or suspend Respondents' certified public accountant license number CPA 64155 and certified public accountancy corporation number 5185, pursuant to Business and Professions Code section 5100, subdivision (l), for the discipline imposed by the PCAOB, as set forth in Factual Findings 1, 4, 8, and Legal Conclusions 3-5.

3. Business and Professions Code section 5100 states in pertinent part:

After notice and hearing the board may revoke, suspend or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

[¶] ... [¶]

(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in the same or different engagements, for the same or different clients, or any combination of engagements or clients, each resulting in a violation of applicable professional standards that indicate a lack of competency in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

[¶] ... [¶]

(l) The imposition of any discipline, penalty, or sanction on a registered public accounting firm or any associated person of such firm, or both, or on any other holder of a permit, certificate, license, or other authority to practice in this state, by the Public Company Accounting Oversight Board or the United States Securities and Exchange Commission, or their designees under the Sarbanes-Oxley Act of 2002 or other federal legislation.

4. The PCAOB's discipline imposed on Respondents on November 22, 2005, establishes cause to revoke or suspend Respondents' licenses. (Bus. & Prof. Code, § 5100, subd. (l).) The PCAOB's findings, as well as those of the Board's investigator, that Respondents' actions regarding client Ashford's estate tax return, and those regarding GSL,

and Axesstel constituted gross negligence, were undisputed by Respondents and thus provide further cause to revoke or suspend Respondents' licenses. (Bus. & Prof. Code, § 5100, subd. (c).)

5. Respondents argued that their actions regarding these three clients were the sole problems in an otherwise well respected and law-abiding accounting practice. However, these three clients encompassed separate activities in more than one year. Furthermore, Respondents' actions were significant departures from generally accepted accounting principles, and the PCAOB's order constituted serious disciplinary action, demonstrating the serious nature of Respondents' actions. Respondent Lee should have exercised professional responsibility, by acknowledging his lack of experience and refused the work in the case of these three clients, or acquired the services of a properly experienced and qualified professional to assist him in those matters.

*Respondents' Failure to Report the PCAOB Discipline Timely*

6. Cause exists to revoke or suspend Respondents' certified public accountant license number CPA 64155 and certified public accountancy corporation number 5185, pursuant to Business and Professions Code section 5063, subdivision (a)(2), for failing to report the PCAOB's discipline against them, as set forth in Factual Findings 1, 4, 8-10, and Legal Conclusions 7 and 8.

7. Business and Professions Code section 5063 states in pertinent part:

(a) A licensee shall report to the board in writing of the occurrence of any of the following events occurring on or after January 1, 1997, within 30 days of the date the licensee has knowledge of these events:

[¶] ... [¶]

(2) The cancellation, revocation, or suspension of a certificate, other authority to practice or refusal to renew a certificate or other authority to practice as a certified public accountant or a public accountant, by any other state or foreign country.

8. Respondents' failure to report the PCAOB's discipline against them within 30 days of the imposition of that discipline is a violation of Business and Professions Code section 5063, subdivision (a)(2).

*Respondents' Failure to Maintain Auditor Independence*

9. Cause exists to revoke or suspend Respondents' certified public accountant license number CPA 64155 and certified public accountancy corporation number 5185, pursuant to California Code of Regulations, title 16, section 65, for failing to maintain

auditor independence, as set forth in Factual Findings 1, 4, 12, 13, and Legal Conclusions 10 and 11.

10. California Code of Regulations, title 16, section 65 states:

A licensee shall be independent in the performance of services in accordance with professional standards.

11. Respondent Lee's Axesstel directorship, while Respondents were engaged as independent auditors for Axesstel, was a violation of California Code of Regulations, title 16, section 65.

*Evidence of Rehabilitation*

12. California Code of Regulations, title 16, section 99.1 states:

When considering the denial of a certificate or permit under Section 480 of the Business and Professions Code, the suspension or revocation of a certificate or permit or restoration of a revoked certificate under Section 11522 of the Government Code, the board, in evaluating the rehabilitation of the applicant and his present eligibility for a certificate or permit, will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Criminal record and evidence of any act(s) committed subsequent to the act(s) or offense(s) under consideration which also could be considered as grounds for denial, suspension or revocation.
- (3) The time that has elapsed since commission of the act(s) or offense(s) referred to in subdivision (1) or (2).
- (4) The extent to which the applicant or licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant or licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the applicant or licensee.

13. Respondents' transgressions were significant and their licenses merit disciplinary action. However, it is appropriate to consider those transgressions within the context provided in the Board's regulations. While Respondent's actions were severe (Cal.

Code Regs., tit. 16, § 99.1, subd. (1)), they spanned an approximate two-year time period within a 15-year accountancy career for Respondent Lee. Notwithstanding the discussion in Legal Conclusion 5, it cannot be concluded that Respondents' actions demonstrated a long-standing pattern of negligent accounting practice. Respondents have undoubtedly shown that they cannot engage in work involving estate tax returns or international accounting for publicly traded companies, but they have otherwise practiced accountancy in a professional and reputable manner. (Cal. Code Regs., tit. 16, § 99.1, subd. (2).) Saliently, Complainant's case did not establish that Respondents' actions were intended to be deceitful or fraudulent. Instead, the evidence established that Respondents acted ignorantly and with little professional regard for the needed experience to properly perform the accountancy acts for which they had been engaged. Such actions are nonetheless serious, but in this case, that distinction results in a conclusion that Respondents' licenses merit less severe discipline than revocation to protect the public. It has been over three years since Respondents performed the complained-of services for Ashford. It has been between four and five years since Respondents performed the complained-of services for GSL and Axesstel. A moderate amount of time has passed. (Cal. Code Regs., tit. 16, § 99.1, subd. (3).) Respondents have cooperated with the Board and the PCAOB. (Cal. Code Regs., tit. 16, § 99.1, subd. (6).) Respondent Lee demonstrated remorse for his failures and accepted personal responsibility for his actions; he was respectful of the Board and the proceedings. (*Ibid.*) Overall, Respondents demonstrated that they have understood the errors of their actions. It appears unlikely that Respondents would repeat such acts. Thus, while Respondents' actions warrant discipline to ensure the public's safety, a suspension period and issuance of probationary licenses with adequate measures for oversight, as set forth in the Order below, will ensure the public's protection.

14. Cause exists to grant Complainant the Board's costs of investigation and prosecution, pursuant to Business and Professions Code section 5107, as set forth in Factual Findings 1-15, and Legal Conclusions 1-16.

15. Business and Professions Code section 5107 states in pertinent part:

(a) The executive officer of the board may request the administrative law judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate found to have committed a violation or violations of this chapter to pay to the board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees. The board shall not recover costs incurred at the administrative hearing.

(b) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the executive officer, shall be prima facie evidence of reasonable costs of investigation and prosecution of the case.

(c) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested to do so by the executive officer pursuant to subdivision (a). Costs are payable 120 days after the board's decision is final, unless otherwise provided for by the administrative law judge or if the time for payment is extended by the board.

(d) The finding of the administrative law judge with regard to cost shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge where the proposed decision fails to make a finding on costs requested by the executive officer pursuant to subdivision (a).

(e) The administrative law judge may make a further finding that the amount of reasonable costs awarded shall be reduced or eliminated upon a finding that respondent has demonstrated that he or she cannot pay all or a portion of the costs or that payment of the costs would cause an unreasonable financial hardship which cannot be remedied through a payment plan.

16(a). Complainant established her case against Respondents. The Board's costs are just and reasonable, and therefore, costs should be granted. Respondents failed to set forth any evidence that the costs, if assessed against them, would be an economic hardship.

16(b). Respondents argued that the assessment of costs should be considered in light of the case of *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.App.4th 32. In *Zuckerman*, the Court of Appeal ruled that "[T]he Board may not assess the full costs of investigation and prosecution when to do so will unfairly penalize a [licensee] who has committed some misconduct, but who has used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed." (*Id.*, 29 Cal.App.4th at p. 45.) In imposing costs in such situations, one must consider the licensee's subjective good faith belief in the merits of his or her position and it must consider whether the licensee has raised colorable claim. One must consider the licensee's ability to make payment. In this matter, Respondents were unable to set forth a meritorious defense overall, but pursuant to *Zuckerman*, a small reduction in costs is appropriate, given Respondents' efforts at hearing to explain their actions, put forth their case, and ultimately, establish that suspension and probation are appropriate disciplinary actions, as opposed to revocation (though it is noted that Respondents did not argue for a period of suspension). Consequently, the prosecution costs are reduced by \$1,000.

16(c). At hearing, Complainant's counsel did not provide proof of actual costs to support her good faith estimate of the additional hours to be incurred and billed (the additional \$1,580). With no evidence or argument that proof of actual costs were unavailable at the time of hearing, those additional costs, or a fraction thereof, were not granted. Therefore, Respondents are liable for \$14,401.75 in prosecution costs, and \$9,655.60 in investigatory costs, for a total of \$24,057.35.

## ORDER

1(a). Certified public accountant license number CPA 64155, issued to Respondent Kwang-Ho Lee is revoked pursuant to Legal Conclusions 1, 2, 6, and 10, separately and for all of them. However, the revocation is stayed and Respondent Lee is placed on probation for five years upon the terms and conditions set forth below.

1(b). Certified public accountancy corporation certificate number COR 5185, issued to Respondent Kenny H. Lee CPA Group, Inc. is revoked pursuant to Legal Conclusions 1, 2, 6, and 10, separately and for all of them. However, the revocation is stayed and Respondent KHL is placed on probation for five years upon the terms and conditions set forth below.

### *Suspension*

2(a). Certified public accountant license number CPA 64155, issued to Respondent Kwang-Ho Lee is suspended for 30 days. During the period of suspension, Respondent Lee shall engage in no activities for which certification as a certified public accountant or public accountant is required as described in Business and Professions Code, Division 3, Chapter 1, Section 5051.

2(b). Certified public accountancy corporation certificate number COR 5185, issued to Respondent Kenny H. Lee CPA Group, Inc. is suspended for 30 days. During the period of suspension, Respondent KHL shall engage in no activities for which certification as a certified public accountancy corporation is required.

### *Notification to Clients/Suspension of Practice*

3. Respondents shall comply with procedures provided by the California Board of Accountancy or its designee regarding notification to, and management of, clients.

### *Supervised Practice*

4. Within thirty days of the effective date of this decision, Respondents shall submit to the Board or its designee for its prior approval a plan of practice that shall be monitored by another CPA or PA who provides periodic reports to the Board or its designee. Respondents shall pay all costs for such monitoring.

### *Ethics Course/Examination*

5(a). Respondent Lee shall take and pass, with a score of 90 percent or better, a Board-approved ethics examination prior to the resumption of practice.

5(b). If Respondent Lee fails to pass said examination within the time period provided or within two attempts, Respondent Lee shall so notify the Board and shall cease



practice until Respondent Lee takes and successfully passes said exam, has submitted proof of same to the Board, and has been notified by the Board that he may resume practice. Failure to pass the required examination no later than 100 days prior to the termination of probation shall constitute a violation of probation.

5(c). Notwithstanding any other provision of this probation, failure to take and pass this examination within five years of the effective date of this Order constitutes a separate cause for discipline of Respondents' licenses.

*Obey All Laws*

6. Respondents shall obey all federal, California, other states' and local laws, including those rules relating to the practice of public accountancy in California.

*Cost Reimbursement*

7. Respondents shall reimburse the Board \$24,057.35 for its investigation and prosecution costs. The payment shall be made within 120 days of the date the Board's decision is final, unless the Board, in its discretion, extends the time for payment.

*Submit Written Reports*

8. Respondents shall submit, within 10 days of completion of the quarter, written reports to the Board on a form obtained from the Board. Respondents shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as are required. These declarations shall contain statements relative to Respondents' compliance with all the terms and conditions of probation. Respondents shall immediately execute all release of information forms as may be required by the Board or its representatives.

*Personal Appearances*

9. Respondents shall, during the period of probation, appear in person at interviews/meetings as directed by the Board or its designated representatives, provided such notification is accomplished in a timely manner.

*Comply With Probation*

10. Respondents shall fully comply with the terms and conditions of the probation imposed by the Board and shall cooperate fully with representatives of the California Board of Accountancy in its monitoring and investigation of Respondents' compliance with probation terms and conditions.

*Practice Investigation*

11. Respondents shall be subject to, and shall permit, a practice investigation of Respondents' professional practice. Such a practice investigation shall be conducted by

representatives of the Board, provided notification of such review is accomplished in a timely manner.

*Comply With Citations*

12. Respondents shall comply with all final orders resulting from citations issued by the California Board of Accountancy.

*Tolling of Probation for Out-of-State Residence/Practice*

13. In the event Respondents should leave California to reside or practice outside this state, Respondents must notify the Board in writing of the dates of departure and return. Periods of non-California residency or practice outside the state shall not apply to reduction of the probationary period, or suspension. No obligation imposed herein, including requirements to file written reports and reimburse the Board costs, shall be suspended or otherwise affected by such periods of out-of-state residency or practice except at the written direction of the Board.

*Violation of Probation*

14. If Respondents violate probation in any respect, the Board, after giving Respondents notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is filed against Respondents during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

*Completion of Probation*

15. Upon successful completion of probation, Respondents' licenses will be fully restored.

Date: December 3, 2008



DANIEL JUAREZ  
Administrative Law Judge  
Office of Administrative Hearings

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of the State of California  
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7  
8 **BEFORE THE**  
**CALIFORNIA BOARD OF ACCOUNTANCY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2007-38

12 KENNY H. LEE CPA GROUP, INC.  
15017 Crenshaw Boulevard, 2<sup>nd</sup> Fl  
Gardena, CA 90249

OAH No. L2008050601

**FIRST AMENDED ACCUSATION**

13 Certificate No. 5185

14 KWANG-HO LEE  
15 28427 Hazelridge Drive  
Rancho Palos Verdes, CA 90275

16 Certified Public Accountant License No. CPA  
17 64155

18 Respondents.

19  
20 Complainant alleges:

21 **PARTIES**

22 1. Daniel Rich (Complainant) brings this First Amended Accusation solely in  
23 his official capacity as the Acting Executive Officer of the California Board of Accountancy  
24 (Board), Department of Consumer Affairs.

25 2. On or about May 13, 1993, the Board issued Certified Public Accountant  
26 Number CPA 64155 to Kwang-Ho Lee (Respondent Lee). The license was in full force and  
27 effect at all times relevant to the charges brought herein against Respondent Lee, and will expire  
28 on March 31, 2010 unless renewed.

3. On or about October 31, 2002, the Board issued Certified Public Accountancy Corp. Number COR 5185 to Kenny H. Lee, CPA Group, Inc. (Respondent KHL). Respondent Lee is the sole shareholder in Respondent KHL. The certificate was in full force and effect at all times relevant to the charges brought herein against Respondent KHL, and will expire on October 31, 2008 unless renewed.

## JURISDICTION

4. This First Amended Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 5100 states:

"After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

"(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in the same or different engagements, for the same or different clients, or any combination of engagements or clients, each resulting in a violation of applicable professional standards that indicate a lack of competency in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

"(l) The imposition of any discipline, penalty, or sanction on a registered public accounting firm or any associated person of such firm, or both, or on any other holder of a permit, certificate, license, or other authority to practice in this state, by the Public Company Accounting Oversight Board or the United States Securities and Exchange Commission, or their designees under the Sarbanes-Oxley Act of 2002 or other federal legislation."

6. Section 5063, subdivision (a)(2) of the Code requires a licensee to report

1 in writing to the Board within 30 days of the date the licensee has knowledge of the cancellation,  
2 revocation, or suspension of the right to practice as a certified public accountant before any  
3 governmental body; or any notice of the opening or initiation of an investigation by the Public  
4 Company Accounting Oversight Board (PCAOB) or its designee.

5 7. California Code of Regulations, title 16, section 65 states: "A licensee  
6 shall be independent in the performance of services in accordance with professional standards."<sup>1</sup>

7 8. Professional Standards (Audits of Financial Statements)

8 Generally Accepted Auditing Standards (GAAS) are the standards prescribed for  
9 the conduct of auditors in the performance of an examination of management's financial  
10 statements. Generally Accepted Accounting Principles (GAAP) are the basic postulates and  
11 broad principles of accounting pertaining to business enterprises. These principles establish  
12 guidelines for measuring, recording and classifying the transactions of a business entity.

13 Standards of practice pertinent to this accusation and the engagements in issue<sup>2</sup> include, without  
14 limitation:

15 a. GAAS issued by the American Institute of Certified Public Accountants  
16 (AICPA). The ten GAAS<sup>3</sup> are discussed at some length in the Statements on Auditing Standards

17  
18 1. American Institute of Certified Public Accountants (AICPA) Rule 101 states that a  
19 member in public practice shall be independent in the performance of professional services as  
20 required by standards promulgated by bodies designated by Council.

21 Rule 101 interpretation section 101.02 states, "Independence shall be considered to be  
22 impaired if (C) During the period covered by the financial statements or during the period of the  
23 professional engagement, a firm, or partner or professional employee of the firm was  
24 simultaneously associated with the client as a director, officer, or employee, or in any capacity  
25 equivalent to that of management."

26 AICPA Statements on Standards for Accounting and Review Services (SSARS) section  
27 AR 100.45 states that an accountant is precluded from issuing a review report on financial  
28 statements of an entity with respect to which he is not independent.

29 2. All references herein to standards and other authoritative literature are to the versions in  
30 effect at the time the audit engagements were being performed.

31 3. There are ten basic or fundamental standards, and the Statements on Auditing Standards  
32 (SASs) are, for the most part, devoted to elaborating on those standards. The basic standards  
33 are codified at AU § 150. Among these ten standards are the three General standards, the three  
34 standards of Fieldwork, and the four Reporting standards, all of which are further described in

1 (SASs) and are codified by "AU" number in the AICPA's *Codification of Statements on Auditing*  
2 *Standards*.

3 Among the SASs relevant herein are:

4 AU § 150 (Ten Standards - AU § 150.02);

5 AU § 230 (Due Care; AU § 230.02 imposes a responsibility on the auditor to  
6 observe the standards of Fieldwork and Reporting; AU § 230.07 imposes a  
7 responsibility on the auditor to exercise professional skepticism);

8 AU § 326 (Evidential Matter);

9 AU § 336 (Using the Work of a Specialist);

10 b. GAAS specifies the following:

11 1. AU 326.02 states: "Most of the independent auditor's work in  
12 forming his or her opinion on financial statements consists of  
13 obtaining and evaluating evidential matter concerning the  
14 assertions in such financial statements. . . ."

15 2. AU 326.03 states: "Assertions are representations by management  
16 that are embodied in financial statement components. They can be  
17 either explicit or implicit and can be classified according to the  
18 following broad categories: Existence or occurrence,  
19 completeness, rights and obligations, valuation or allocation, and  
20 presentation and disclosure."

21 3. AU 326.07 states: "Assertions about valuation or allocation  
22 address whether asset, liability, equity, revenue, and expense  
23 components have been included in the financial statements at  
24 appropriate amounts. For example, management asserts that  
25 property is recorded at historical cost and that such cost is  
26 systematically allocated to appropriate accounting periods.

27  
28 the other SASs.

1 Similarly, management asserts that trade accounts receivable  
2 included in the balance sheet are stated at net realizable value [as  
3 amended, effective for engagements beginning on or after January  
4 1, 1997, by Statement of Auditing Standards No. 80].

5 4. AU 336.03 states: "The guidance in this section is applicable  
6 when management engages or employs a specialist and the auditor  
7 uses that specialist's work as evidential matter in performing  
8 substantive tests to evaluate material financial statement  
9 assertions,"

10 5. AU 336.08 states: "The auditor should consider the following to  
11 evaluate the professional qualifications of the specialist in  
12 determining that the specialist possesses the necessary skill or  
13 knowledge in the particular field:

- 14 i. The professional certification, license or other recognition of the  
15 competence of the specialist in his or her field, as appropriate;  
16 ii. The reputation and standing of the specialist in the views of peers  
17 and others familiar with the specialist's capability or performance;  
18 and  
19 iii. The specialist's experience in the type of work under  
20 consideration.

21 6. AU 336.10 states: "The auditor should evaluate the relationship of  
22 the specialist to the clients including circumstances that might  
23 impair the specialist's objectivity."

24 7. AU 336.12 states: "The appropriateness and reasonableness of  
25 methods and assumptions used and their application are the  
26 responsibility of the specialist. The auditor should (a) obtain an  
27 understanding of the methods and assumptions used by the  
28 specialist, (b) make appropriate tests of data provided to the

1 specialist, taking into account the auditor's assessment of control  
2 risk, and (c) evaluate whether the specialist's findings support the  
3 related assertions in the financial statements."

4 8. AU 508.35 states: "When financial statements are materially  
5 affected by a departure from GAAP and the auditor has audited the  
6 statements in accordance with GAAS, he or she should express a  
7 qualified or an adverse opinion. The basis for such opinion should  
8 be stated in the report."

9 9. PCAOB section 3520 states in pertinent part that a registered public  
10 accounting firm and its associated persons must be independent of the firm's audit client  
11 throughout the audit and professional engagement period."

12 10. Section 5107, subdivision (a) of the Code states in pertinent part, that the  
13 Board's Executive Officer "may request the administrative law judge, as part of the proposed  
14 decision in a disciplinary proceeding, to direct any holder of a permit or certificate found to have  
15 committed a violation or violations of this chapter to pay to the board all reasonable costs of  
16 investigation and prosecution of the case, including, but not limited to, attorneys' fees. The board  
17 shall not recover costs incurred at the administrative hearing."

#### 18 FIRST CAUSE FOR DISCIPLINE

19 (Gross Negligence)

20 11. Respondents are subject to disciplinary action on the grounds of  
21 unprofessional conduct as defined in section 5100, subdivision (c), by reason of the following:

#### 22 Nichols Estate

23 a. In or about 2004, Yvonne Ashford engaged the services of the  
24 Respondents to assist her, among other things, in filing an income tax return for her late mother  
25

26  
27 4. Respondents were required to conduct their audits in accordance with the PCAOB's  
28 interim auditing standards pursuant to PCAOB Rule 3200T, which took effect on April 25,  
2003. However, at the time of the audits, the PCAOB's interim auditing standards were the  
same as GAAS.



1 Minnie Nichols' estate.<sup>5</sup> Ms. Ashford advised Respondent Lee that the estate had assets valued  
2 at approximately \$270,000. Respondent Lee agreed to file federal form 1041 for a \$250.00 fee,

3 i. Ms. Ashford provided Respondent Lee with her mother's bank statements.  
4 After receiving the bank statements, Respondent Lee informed Ms. Ashford that he would charge  
5 her \$500.00 to prepare form 1041.

6 ii. Several weeks later, Respondent Lee contacted Ms. Ashford and advised  
7 her that an Estate Tax Return<sup>6</sup> needed to be filed as soon as possible. Respondent Lee advised  
8 Ms. Ashford that he would charge her \$1,000.00 to prepare forms 1041 and 706. Ms. Ashford  
9 agreed, wrote a check to Respondent KHL for \$1,000.00, picked up the prepared forms 706 and  
10 1041 from Respondent Lee's office, and mailed the forms right away. Ms. Ashford subsequently  
11 contacted her attorney, who advised her that it was not necessary to file form 706 because the  
12 estate was so small. Ms. Ashford put a stop payment on the \$1,000.00 check.

13 Respondents Violated Auditing Standards in the Fiscal Year 2003 Audit of GSL Holdings, Inc.

14 b. Respondent KHL audited GSL's consolidated financial statements for the  
15 fiscal year ending December 31, 2003, and issued an "unqualified audit report" dated April 8,  
16 2004. In connection with the audit of GSL's financial statements for the fiscal year 2003,  
17 Respondents failed to exercise due professional care, failed to exercise professional skepticism,  
18 and failed to obtain sufficient competent evidential matter.

19 i. Specifically, during the 2003 fiscal year, GSL's property and equipment  
20 increased from \$2,540 to \$33,694,006. Total assets shown on the balance sheet for 2003 were  
21 \$49,861,311. According to GSL's public filings, the bulk of the increase in property and  
22 equipment related to GSL's acquisitions of two properties in the People's Republic of China  
23 (PRC). The properties were acquired through the issuance of GSL's own stock. Respondents'

24

25 5. Every domestic estate with gross income of \$600.00 or more during a tax year must file  
26 a federal form 1041.

27 6. An Estate Tax Return, federal form 706, must be filed if the gross estate, plus any  
28 adjusted taxable gifts and specific gift tax exemptions, is more than the filing requirement for  
the year of death. In the instant case, the filing requirement is triggered at \$1,500,000.

1 audit procedures were insufficient to reasonably conclude that GSL had properly valued the  
2 properties in its financial statements. Respondents relied on appraisals provided to them by GSL  
3 that GSL purportedly obtained from independent appraisers located in the PRC. Respondents  
4 never contacted the appraisers to verify that the appraisals were valid. Respondents never  
5 evaluated whether the appraisers had the requisite experience or certification to perform the  
6 appraisals; never evaluated the assumptions and methodologies used by the appraisers; and never  
7 made inquiries concerning the appraisers' relationships with GSL, if any, in violation of  
8 professional standards.

9           ii.     The balance sheet for GSL for 2003 shows prepayments and other current  
10 assets of \$10,762,629. The balance was zero for 2002. Note 4 to the financial statements states  
11 that \$10,446,331 of the prepayments balance is for prepaid website design and development.  
12 Respondents failed to perform adequate audit procedures to test whether GSL had actually  
13 prepaid the vendor in 2003, and whether those costs were properly classified as an asset on  
14 GSL's balance sheet. Moreover, even if it had been appropriate to classify the costs as an asset,  
15 Respondents should have, but did not, evaluate whether those costs were recoverable in light of  
16 GSL's recurrent losses and lack of revenue history.

17           iii.    GSL included a portion of the above noted property acquisitions in its  
18 statement of cash flows. The statement of cash flows for GSL for 2003 shows \$19,064,890 of  
19 operating cash flow from common stock issued for acquisition of properties. Note 12 to the  
20 financial statements states that "the Company entered into an agreement to acquire a property . . .  
21 valued at \$19,064,890. Pursuant to an agreement, the company issued 9,532,445 (shares of)  
22 restricted common stock at the price of \$2.00 per share." This accounting treatment departed  
23 from GAAP, which requires the reporting of non-cash activities in related disclosures, not in the  
24 statement of cash flows. As a result, GSL overstated its cash flows from operations.  
25 Respondents failed to disclose this GAAP departure in their auditors' report and to modify the  
26 report.

27     ///

28     ///

1                                    Respondents Violated Independence Standards

2                                    With Respect to the Axesstel, Inc. Engagement for 2003

3                    c.        Respondent KHL was engaged as the independent auditor of Axesstel, Inc.  
4 beginning in or about August 2002. During the fiscal year ending December 31, 2003,  
5 Respondent KHL performed interim reviews of Axesstel's financial statements for the quarters  
6 ending March 31 and June 30, 2003.

7                    i.        On or about June 2, 2003, while Respondent KHL was engaged as  
8 Axesstel's independent auditor, Respondent Lee accepted an offer to serve on the Axesstel's  
9 board of directors. Respondent KHL continued its attest engagement for Axesstel. On or about  
10 August 5, 2003, Respondent KHL completed an interim review of Axesstel's financial  
11 statements for the quarter ending June 30, 2003. Respondent KHL's review report was included  
12 in the Form 10-QSB filed by Axesstel, with the Security and Exchange Commission, on or about  
13 August 15, 2003.

14                    ii.        In or about September 2003, Respondent Lee formally became a member  
15 of Axesstel's board of directors and became chairman of the board's audit committee.

16                    iii.        In or about March 2004, Respondent Lee resigned from Axesstel's board  
17 of directors.

18                                    Respondents Violated Auditing Standards

19                                    In the 2004 Axesstel, Inc. Restatement Engagement

20                    d.        On or about September 21, 2004, Axesstel re-engaged Respondent KHL to  
21 perform audit services related to a restatement of the company's financial statements for the  
22 fiscal year ending December 31, 2002. The restatement involved, among other things, changes in  
23 Axesstel's accounting for software research and development costs, a license purchased from  
24 another company, stock options and goodwill impairment.

25                    i.        On or about September 30, 2004, Respondent KHL issued an audit report  
26 relating to the restatement indicating that an audit had been conducted in accordance with  
27 PCAOB standards. Moreover, the report also stated that the restated financial statements fairly  
28 presented Axesstel's financial condition in all material respects in conformity with generally

1 accepted accounting principles (GAAP).

2 ii. However, before issuing the audit report, Respondents performed no audit  
3 procedures to determine whether the restated amounts proposed by management were fairly  
4 stated in conformity with GAAP. Respondents merely accepted, at face value, the restatement  
5 journal entries proposed by Axesstel's management. Respondents' conduct violated the most  
6 fundamental PCAOB standards, which require an auditor to perform audit procedures necessary  
7 to afford a reasonable basis for an opinion and prohibit an auditor from relying on management  
8 representations as a substitute for such procedures.

9 SECOND CAUSE FOR DISCIPLINE

10 (Lack of Independence)

11 12. Respondents are subject to disciplinary action for violating California  
12 Code of Regulations, title 16, section 65 based on the following facts and circumstances:

13 In or about August 2002, Axesstel engaged Respondent KHL to be its  
14 independent auditor. Respondent Lee accepted an offer to serve on Axesstel's board of directors  
15 while Respondent KHL was conducting an independent audit on Axesstel. Respondents violated  
16 PCAOB section 3520; AICPA Rule 101 and AICP SSARS section AR 100.45 with regard to  
17 independence. The facts and circumstances are more fully set forth in paragraphs 11(c), 11 (c)(i)  
18 through 11(c)(iii) above.

19 THIRD CAUSE FOR DISCIPLINE

20 (Imposition of Discipline by the PCAOB)

21 13. Respondents are subject to disciplinary action on the grounds of  
22 unprofessional conduct as defined in section 5100, subdivision (l), by reason of the following  
23 facts and circumstances:

24 On or about November 22, 2005, the PCAOB issued an order  
25 revoking the registration of Respondent KHL and barring its sole shareholder, Respondent  
26 Kwang Ho-Lee, CPA, from being an associated person of a registered public accounting firm.  
27 The PCAOB imposed sanctions on the basis, among other things, of its findings concerning the  
28 Respondents' violations of PCAOB rules and auditing standards in auditing the financial

1 statements of two issuer clients, and their violations of independence standards.

2 FOURTH CAUSE FOR DISCIPLINE

3 (Reportable Event)

4 14. Respondents are subject to disciplinary action for violating section 5063  
5 by failing to report in writing, to the board, within 30 days of the date the Respondents had  
6 knowledge of the events, the initiation of an investigation against Respondents by the PCAOB;  
7 the revocation of Respondent KHL's registration by the PCAOB; and the barring of Respondent  
8 Lee from being an associated person of a registered public accounting firm by the PCAOB.

9  
10 PRAYER

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
12 alleged, and that following the hearing, the Board issue a decision:


13 1. Revoking or suspending or otherwise imposing discipline upon Certified  
14 Public Accountant License No. CPA 64155, issued to Kwang-Ho Lee;

15 2. Revoking or suspending or otherwise imposing discipline upon Certified  
16 Public Accountancy Corp. No. COR 5185, issued to Kenny H. Lee, CPA Group, Inc.;

17 3. Ordering Respondents to pay the Board the reasonable costs of the  
18 investigation and enforcement of this case, pursuant to section 5107; and

19 4. Taking such other and further action as deemed necessary and proper.

20  
21 DATED: August 6, 2006

22   
23 DANIEL RICH  
24 Acting Executive Officer  
25 California Board of Accountancy  
26 Department of Consumer Affairs  
27 State of California  
28 Complainant

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28 50293993.wpd